

-----Original Message-----

From: Matthew Moneyham [mailto:mm@glendacochran.com]
Sent: Friday, November 09, 2012 4:37 PM
To: Stacey Strain; Glenda Cochran; 'brian.malcom@wallerlaw.com';
'larry.childs@wallerlaw.com'; 'mila.gudkov@freshfields.com';
'timothy.harkness@freshfields.com'
Cc: Jo Smith; Jeff Hubbard; Brittney Dyess; Katie Harper
Subject: RE: Mims vs. Wal-Mart and Kinderhook

Stacey:

I just received your email below. Upon receipt of your previous email indicating that you would oppose the motion, I asked my secretary to file it, and it has already been filed.

In any event, we are certainly willing to work with you regarding the extension of deadlines and proposing alternatives to the Court during a Rule 16 conference.

Thanks,

MATTHEW R. MONEYHAM
COCHRAN & ASSOCIATES
310 21st Street North, Suite 500
Birmingham, AL 35203
T: 205.328.5050
F: 205.320.1659

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-----Original Message-----

From: Stacey Strain [mailto:strain@hubbardmitchell.com]
Sent: Friday, November 09, 2012 4:17 PM
To: Stacey Strain; Matthew Moneyham; Glenda Cochran; 'brian.malcom@wallerlaw.com';
'larry.childs@wallerlaw.com'; 'mila.gudkov@freshfields.com';
'timothy.harkness@freshfields.com'
Cc: Jo Smith; Jeff Hubbard; Brittney Dyess; Katie Harper
Subject: RE: Mims vs. Wal-Mart and Kinderhook

Matt- With further reading of your proposed motion and I as I told you on the phone, we are willing to work with you to get the relief you need- extension of deadlines. But we are unable to agree to the motion as written. Is there some middle ground that we can come to? Can you hold off on filing the motion and perhaps work with us and Kinderhook in drafting and filing a Joint Motion?

Stacey L. Strain

HUBBARD, MITCHELL, WILLIAMS & STRAIN, PLLC Post Office Box 13309 Jackson, MS 39236
1062 Highland Colony Parkway, Suite 222
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-----Original Message-----

From: Stacey Strain
Sent: Friday, November 09, 2012 4:03 PM
To: 'Matthew Moneyham'; Glenda Cochran; 'brian.malcom@wallerlaw.com';
'larry.childs@wallerlaw.com'; 'mila.gudkov@freshfields.com';
timothy.harkness@freshfields.com
Cc: Jo Smith; Jeff Hubbard; Brittney Dyess; Katie Harper
Subject: RE: Mims vs. Wal-Mart and Kinderhook

Matt- It was nice talking with you this afternoon and thank you for forwarding me a copy of your proposed motion to amend deadlines. As we discussed, I am agreeable to extending deadlines and a scheduling conference. However, a quick review of the 24 page motion (I can only skim over the lengthy motion before your 4:30 self-imposed deadline to file) reveals statements concerning Wal-Mart's document production that we believe are self-serving to Plaintiffs and do not accurately reflect the efforts of Wal-Mart. We want the opportunity for the Court to know our position concerning our efforts regarding the document production. As such, I cannot say that we will not oppose the motion.- Stacey

-----Original Message-----

From: Matthew Moneyham [mailto:mm@glendacochran.com]
Sent: Friday, November 09, 2012 3:15 PM
To: Stacey Strain; Glenda Cochran; 'brian.malcom@wallerlaw.com';
'larry.childs@wallerlaw.com'; 'mila.gudkov@freshfields.com';
timothy.harkness@freshfields.com
Cc: Jo Smith; Jeff Hubbard; Brittney Dyess; Katie Harper
Subject: RE: Mims vs. Wal-Mart and Kinderhook

Stacey:

I write with respect to your email below. As you have previously suggested, we are in the process of addressing formatting issues regarding Wal-Mart's production through a third party ESI consultant. Because these issues have not been resolved, we cannot estimate how much additional time will be needed for Plaintiffs expert disclosures at this time, as we are still unable to utilize Wal-Mart's production.

For this reason, and due to the fact that other deadlines in the case may have to be moved as well, we are requesting a scheduling conference pursuant to Rule 16. Thus, any concerns or arguments you may have regarding moving other deadlines in the case can be raised and addressed at that time.

As I understand our position, you are not necessarily opposed to extending deadlines in the case. I hope that this explanation, and the fact that the Rule 16 conference should enable the parties to address other deadlines in the case, is sufficient. Please let us know as soon as possible whether or not you will oppose our motion, as we intend to file it with the court today.

If you have any questions, please feel free to give me a call.

Thanks,

MATTHEW R. MONEYHAM
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310 21st Street North, Suite 500
Birmingham, AL 35203
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F: 205.320.1659

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-----Original Message-----

From: Stacey Strain [mailto:strain@hubbardmitchell.com]
Sent: Friday, November 09, 2012 11:10 AM
To: Glenda Cochran; 'brian.malcom@wallerlaw.com'; 'larry.childs@wallerlaw.com'; 'mila.gudkov@freshfields.com'; timothy.harkness@freshfields.com
Cc: Matthew Moneyham; Jo Smith; Jeff Hubbard; Brittney Dyess; Katie Harper
Subject: Mims vs. Wal-Mart and Kinderhook

Glenda- We would be agreeable to extending deadlines; however, I would need to have more specifics about what you are proposing. If the deadline for Plaintiffs' expert reports is extended then we would also need to have the deadline for defense expert reports extended. We will need, at a dead minimum, 45 days from your deadline for our expert reports. Without knowing how much additional time you need for experts, it is hard to look at other deadlines to see if those will be affected. Could you be more specific about the amount of time that you are needing?

Additionally, I need to go ahead and get some dates on the calendar in either January or February for the depositions of the Mims and their children. I know that in our recent correspondence you indicated that you thought I owe a 30(b)(6) deposition prior to giving me dates for the Plaintiffs. Attached is an email from June discussing the 30(b)(6). I need for you to amend the notice to a more narrowed and workable notice. Once I receive the amended notice then I will be in a position to review and determine the number of designees that we will need to address the topics of inquiry. After that, I will be able to get dates of availability for you to conduct the 30(b)(6) in Bentonville, Arkansas.

I have included counsel for Kinderhook on this email since we will also need their input for proposed extensions and proposed dates for depositions.

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-----Original Message-----

From: Glenda Cochran [mailto:gc@glendacochran.com]
Sent: Thursday, November 08, 2012 3:57 PM
To: Stacey Strain
Cc: Matthew Moneyham; Jo Smith
Subject: Re: Walmart

We are interested in moving the deadline for plaintiff's expert disclosures, and are also requesting a Rule 16 scheduling conference regarding how this will effect the other deadlines. Kinderhook does not oppose our motion.

Sent from my iPad

On Nov 8, 2012, at 3:51 PM, "Stacey Strain" <strain@hubbardmitchell.com> wrote:

> Glenda- I have been tied up in meetings all day and just now getting a break to check emails. Which particular deadlines are you currently concerned with? I would not oppose extending deadlines provided that all deadlines be extended accordingly. What is the position of Kinderhook on extending deadlines? I look forward to hearing back from you. If I get a chance later this afternoon, I will call you. If not, I will call tomorrow.

>

> Stacey L. Strain
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>

> -----Original Message-----

> From: Glenda Cochran [mailto:gc@glendacochran.com]
> Sent: Thursday, November 08, 2012 11:59 AM
> To: Stacey Strain
> Cc: Jo Smith; Matthew Moneyham
> Subject: Walmart

>

> Stacey, please call me as soon as possible. Due to the fact that we are still unable to access Wal-Mart's production, I intend to file a motion for extension of deadlines and need to know if you will oppose the motion. Thank you. I look forward to hearing from you.

>

> Sent from my iPad